

ORIGINAL

1001 Pennsylvania Avenue, NW, Washington, DC 20004-2595 ■ p202 624-2500 ■ f202 628-5116



Robert M. Halperin  
(202) 624-2543  
rhalperin@crowell.com

EX PARTE OR LATE FILED

043:smd  
01215.010

January 14, 2002

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12th Street S.W., Room TWB204  
Washington, DC 20024

**EX-PARTE LETTER**

RECEIVED

JAN 14 2002

Re: IB Docket No. 98-21

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Ms. Salas:

This letter is being filed, in duplicate, in accordance with the Commission's Rules, to report that the attached letter was sent electronically to Commissioner Martin and the other individuals shown today.

In the event there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert M. Halperin".

Robert M. Halperin  
Counsel for the State of Alaska

Attachment

cc: Chairman Michael Powell  
Commissioner Kathleen Q. Abernathy  
Commissioner Michael J. Copps  
Monica Shah Desai, Legal Advisor to Commissioner Martin  
Catherine Crutcher Bohigian, Legal Advisor to Commissioner Martin  
Peter Tenhula, Senior Legal Advisor for Chairman Michael Powell  
Paul Margie, Legal Advisor to Commissioner Copps  
Bryan Tramont, Senior Legal Advisor to Commissioner Abernathy  
Stacy Robinson, Legal Advisor to Commissioner Abernathy  
Linda Haller, Legal Advisor, International Bureau  
Christopher Murphy, Legal Advisor, International Bureau  
Rosalee Chiara, Deputy Chief, Satellite Policy Branch

No. of Copies rec'd 04/1  
List ABOVE



Robert M. Halperin  
(202) 624-2543  
rhalperin@crowell.com

January 14, 2002

043:smd  
01215.010

RECEIVED

JAN 14 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Commissioner Kevin J. Martin  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room 8-C302  
Washington, DC 20024

Re: IB Docket No. 98-21

Dear Commissioner Martin:

We understand from Herbert Marks, counsel to the State of Hawaii, that you would like current information on the status of DBS programming in the State of Alaska. On behalf of the Office of the Governor of the State of Alaska, this letter responds to your request.

As a preliminary matter, we wish to advise you that the State of Alaska ("the State") does not generally maintain this information. We believe that the major DBS providers themselves (EchoStar and DIRECTV) are in the best position to provide this information. Presumably, their billing records would show who subscribes to their services (to whom bills are sent) and the services that are purchased. In our comments to the Federal Communications Commission in the past, the State has relied on information provided to it from commercial retailers and others with knowledge of DBS in Alaska. The information in this letter is compiled from EchoStar's and DIRECTV's own websites as well as some information from individuals from across Alaska who, the State believes, are knowledgeable. The information the State received from these various individuals is generally consistent with the information contained in the DBS providers' websites.

### **EchoStar Service Availability and Pricing**

It is our understanding that EchoStar's DISH system signal can be received in much, but not all of Alaska. For example, service is not available in the Aleutian Islands. Even where service is possible, the size of the dish necessary for reception in Alaska is larger than that necessary in the lower 48 states. The size varies,

depending on the Alaska location. In the Anchorage-Kenai-Matanuska Valley areas (southcentral Alaska), a 30" diameter satellite dish is typically required. In almost all other areas of the state, a 48" diameter dish is required. Depending on local topographic and other conditions, the required size of the dish may vary.

EchoStar appears to acknowledge that the required dish sizes vary significantly across the portions of Alaska that can receive its service.<sup>1</sup> Its website says the following in response to a FAQ concerning dish sizes outside the Continental U.S.

Question

I live outside of the continental United States, what size dish antenna do I need?

Answer

Please call 1-800-333-DISH or use the link below to locate a retailer near you. They will be able to assist you in getting the correct size dish antenna. If you live in Canada, please call Express-Vu @ 1-905-252-9171.<sup>2</sup>

According to EchoStar's website, the only programming package made available by EchoStar in Alaska is the America's Top 70 package, priced at \$30.99 per month. EchoStar subscribers in the Continental U.S. have various choices, such

---

<sup>1</sup> As you may know, the International Bureau held a meeting with representatives of EchoStar and the States of Alaska and Hawaii on April 12, 2000. On July 14, 2000, the States of Alaska and Hawaii submitted a letter to Mr. Thomas Tycz, Chief of the Satellite & Radiocommunications Division of the International Bureau summarizing that meeting from the States' perspective. That letter reports that an EchoStar retailer in Alaska said that in some parts of Alaska EchoStar service (from EchoStar 4) could be received only with a 1.8 meter (6 foot) dish, and that the signal fades rapidly moving northward to Bethel (in southwest Alaska) and beyond to the northwest and north. Representatives of EchoStar did not disagree with those statements.

<sup>2</sup> <http://faq.dishnetwork.com/questions/96.asp?sc=%2F&cboSubCategory=0&cboCategory=74&txtSearch=size&pg=1> (last visited Jan. 11, 2002).

as the America Top 50 package at \$22.99 per month; America's Top 100 package at \$31.99 per month;<sup>3</sup> and the America Top 150 package at \$40.99.<sup>4</sup>

The differential in pricing to the detriment of Alaskans is notable. The Top 70 package would appear closer to the America's Top 50 in size, yet it is priced at almost the same amount as the America's Top 100 package (\$30.99 vs. \$31.99 per month). Stated otherwise, Alaska consumers have only one choice – the America's Top 70 package. The price for that package is about 97% of the price of much larger America's Top 100 package to which residents of the other 49 states can subscribe.

### **DirecTV Service Availability and Pricing**

DirecTV does not claim to offer service throughout Alaska. It offers no programming package aimed at Alaska (as it does to Hawaii). It is our understanding that the service it offers in the Continental U.S. service can be received in the southcentral and southeast portions of the State only; other areas of the State are unserved. Even in the locations in which it is available, DIRECTV service requires the use of a significantly larger dish than that used in the Continental U.S. As DTV itself states on its website:

DIRECTV does offer programming in Alaska. However, because of Alaska's location in relation to our satellites, you may need a larger satellite dish. For example, viewers in Anchorage or Fairbanks may need an eight-foot dish to get good reception. In the Juneau area, a four-foot antenna may do the trick. Areas north and west of these locations will experience an even greater reduction in signal acuity.<sup>5</sup>

---

<sup>3</sup> As reflected in the letter of counsel for the State of Hawaii, dated Jan. 11, 2002, the America Top 100 package is offered in the Continental U.S. and Hawaii; it is not offered in Alaska.

<sup>4</sup> These prices can be seen at the following webpage and at pages accessed easily though it:  
<http://www.dishnetwork.com/content/programming/packages/index.shtml>  
(last visited Jan. 14, 2002).

<sup>5</sup> <http://www.directv.com/overview/overviewpages/0,1098,380,00.html#alaska>  
(last visited Jan. 11, 2002).

It appears that the subscription rate for DIRECTV service in Alaska, where available, is the same as in the Continental U.S., as whatever service is received in Alaska is a spill-over of the service offered in the Continental U.S.<sup>6</sup>

### **Broadband Internet Access**

The issue of satellite-delivered broadband Internet access services is one that is very important to the State. There is some evidence that some of these services are available in some portions of the State.

StarBand, a joint venture in which EchoStar is a part, says on its website that service is available “virtually everywhere in the continental United States, Alaska and Hawaii.”<sup>7</sup> We have no information concerning specifically where service is available, or dish sizes or other requirements. A search on the website of DIRECPC, an affiliate of DIRECTV, identifies two retailers in Anchorage that offer its service, while the next closest retailer is in Washington State.<sup>8</sup> Again, no information is provided with respect to service area, dish size, or other requirements.

It is by no means clear that all broadband Internet services provided by these firms (or their affiliates) are provided in Alaska. DIRECTWAY, a new broadband

- 
- <sup>6</sup> It appears that either the DBS providers themselves or their retailers, agents or distributors are pricing installation and activation services in Alaska at prices far higher than those available in the Continental U.S. Both offer sharply reduced (or even free) equipment and activation for new customers in the continental U.S. only. For example, EchoStar systems are offered for a “super low \$49.99 one-time activation fee,” which includes the first month’s programming and no equipment to buy or maintain. One of the conditions to this offer is that “you must reside in the **continental U.S.**” See <http://www.free-dish-usa.com/fresatsys.html> (last visited Jan. 11, 2001) (emphasis in original). DIRECTV systems are offered for free (in lieu of payments of \$149.00 for the system, and \$199.00 for a professional installation) to first time DIRECTV customers who reside in the Continental U.S. See <http://store.yahoo.com/mini-dish/dirsyswitfre.html> (last visited Jan. 11, 2001).
- <sup>7</sup> <http://www.starband.com/faq/starbandfacts.htm#available2> (last visited Jan. 11, 2002).
- <sup>8</sup> See <http://www.direcpc.com/index2.html> (last visited Jan. 11, 2002).

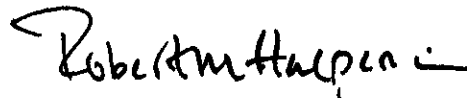
service offering introduced by Hughes Network Services last summer, states that its service is not available in Alaska (or Hawaii).

Q: What is DIRECWAY broadband by satellite?

A: DIRECWAY is the new solution for everyone who is ready for high-speed Internet access. DIRECWAY satellite technology makes high-speed Internet available to everyone *in the continental U.S.*, as long as you have a clear view of the southern sky.<sup>9</sup>

Thank you for your consideration of this matter.

Very truly yours,



Robert M. Halperin  
Counsel for the State of Alaska

cc: Chairman Michael Powell  
Commissioner Kathleen Q. Abernathy  
Commissioner Michael J. Copps  
Monica Shah Desai, Legal Advisor to Commissioner Martin  
Catherine Crutcher Bohigian, Legal Advisor to Commissioner Martin  
Peter Tenhula, Senior Legal Advisor for Chairman Michael Powell  
Paul Margie, Legal Advisor to Commissioner Copps  
Bryan Tramont, Senior Legal Advisor to Commissioner Abernathy  
Stacy Robinson, Legal Advisor to Commissioner Abernathy  
Linda Haller, Legal Advisor, International Bureau  
Christopher Murphy, Legal Advisor, International Bureau  
Rosalee Chiara, Deputy Chief, Satellite Policy Branch  
Secretary, Magalie Roman Salas

1872940

---

<sup>9</sup> <http://www.store.yahoo.com/mini-dish/direcpc.html> (last visited Jan. 11, 2002) (emphasis added).